

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert ROTH	Confirmation No.:	7157
Application No.:	10/783518	Art Unit:	2626
Filed:	February 20, 2004	Examiner:	Douglas GODBOLD
Title:	METHOD OF PRODUCING ALTERNATE UTTERANCE HYPOTHESIS USING AUXILIARY INFORMATION ON CLOSE COMPETITORS		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR
RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§
1.702-1.705**

Dear Madam:

The Notice of Allowance mailed on August 31, 2009 for the application referenced above recites a 689 day patent term adjustment. Applicants believe that the application is entitled to more than 689 days of term adjustment, and hereby request reconsideration of the patent term adjustment as follows.

Applicants believe the total patent term adjustment under 37 C.F.R. §§ 1.702-1.704 should be 1,496 days as of the issue fee due date, November 30, 2009, which is the total of:

(1) 671 days under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1), for the Patent Office delay in issuing a first office action after April 20, 2005 (14 months from the filing date) until February 20, 2007 (three years from filing);

(2) 1,014 days under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the Patent Office delay in issuing the patent after February 20, 2007 (three years from the filing date) until the payment of the issue fee, November 30, 2009;

(3) less 189 days under 37 C.F.R. § 1.704.

The periods (1) and (2) do not overlap under 37 C.F.R. § 1.703(f) and the total PTO delay is 1,496 days. *See Wyeth v. Dudas*, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Thus, the total adjustment based on (1)-(3) (1,685 days, less 189 days (based on (3) above)) yields a total PTA of 1,496 days.

37 C.F.R. 1.702(b) states:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a)

The instant application was filed under 35 U.S.C. § 111(a) on February 20, 2004 and therefore should have issued by February 20, 2007.

37 C.F.R. § 1.703 states in pertinent part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) ... and ending on the date a patent was issued

Therefore, the relevant period of delay in issuing the patent began on February 20, 2007 and our calculations show that the application should receive an additional 1,014 day term adjustment, for a total of 1,496 days.

In accordance with 37 C.F.R. 1.18(e), please charge the \$200.00 fee to our Deposit Account No. 08-0219. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 08-0219, under Order No. 0112855.00124US2.

Respectfully submitted,

Dated: November 30, 2009

/Eric L. Prah, Registration No. 32,590/___

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